



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 10 2006

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jay Armstrong, President
Trialco, Inc.
900 East 14th Street
Chicago Heights, Illinois 60411

Dear Mr. Armstrong:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Trialco, Inc. (Trialco), CAA Docket No. CAA-05-2005-0049. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on FEB 13 2006.

Pursuant to paragraph 9 of the CAFO, Trialco must pay the first installment of the civil penalty within 15 days of the effective date of this CAFO. Your check must display the case docket number, CAA-05-2005-0049, and the billing document number, 056006001. The second installment is due by the 15th day of the month following the first installment.

Please direct any questions regarding this case to Alan Walts, Associate Regional Counsel, (312) 353-8894.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable", with a stylized flourish at the end.

Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Julie Armitage, Section Manager
Compliance and Systems Management Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

6 FEB 13 AM 05

Trialco, Inc.
Chicago Heights, Illinois,

Respondent.

Docket No. CAA-05-2005-0049

**Proceeding to Assess a Civil
Penalty under Section 113(d)
of the Clean Air Act,
42 U.S.C. § 7413(d)**

6 FEB 13 AM 05

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 20, 2005, U.S. EPA filed the complaint in this action against Respondent Trialco, Inc. The complaint alleges that Trialco, Inc. violated Section 112 of the Act, 42 U.S.C. § 7412, and applicable regulations set forth at 40 C.F.R. §§ 63.6, 63.10, 63.1506, 63.1510, 63.1511, 63.1512, 63.1515, 63.1516, and 63.1517, at its facility in Chicago Heights, Illinois.

3. U.S. EPA's Regional Judicial Officer has granted Trialco, Inc. an extension of time until February 14, 2006, within which to file its answer or otherwise plead in this matter.

Stipulations

4. Trialco, Inc. admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Trialco, Inc. waives any right to contest the allegations in the complaint and its right to appeal this consent agreement and final order (CAFO).

6. Trialco, Inc. certifies that it is complying fully with the applicable regulations set forth at 40 C.F.R. §§ 63.6, 63.10, 63.1506, 63.1510, 63.1511, 63.1512, 63.1515, 63.1516, and 63.1517.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of Respondent's compliance history and good faith efforts to comply, cooperation, financial condition, and agreement to perform two supplemental environmental projects (SEPs), U.S. EPA agrees to mitigate the proposed penalty of \$165,746 to \$20,000.

10. Trialco, Inc. must pay the \$20,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," in ten monthly installments of \$2,000 each, with the first installment due within 15 days after the effective date of this CAFO; and with each subsequent installment due by the 15th day of the month.

11. Trialco, Inc. must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check.

Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Alan Walts, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

13. This civil penalty is not deductible for federal tax purposes.

14. If Trialco, Inc. does not pay timely the civil penalty, or any stipulated penalties due under paragraph 28, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Trialco, Inc. will pay a \$15 handling charge each month

that any portion of the penalty is more than 30 days past due. Trialco, Inc. will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Supplemental Environmental Projects

16. Trialco, Inc. must complete two supplemental environmental projects (SEPs) designed to protect the environment and public health. The "Stack-Testing SEP," must be completed by May 31, 2007. The "Emissions Reduction SEP," must be completed by March 31, 2007.

17. At its Chicago Heights facility, Trialco, Inc. must complete the SEPs as follows:

a. *Stack-Testing SEP*. Trialco, Inc. will conduct a series of documented tests to prove that the use of ammonia gas injected into the bag house ductwork will neutralize the hydrogen chloride present; and will measure the resulting effect of ammonia injection on dioxin emissions. A scope of work detailing the project and milestones for completion of the project is included in exhibit A of this CAFO.

b. *Emissions Reduction SEP*. Trialco, Inc. will reduce its products of combustion per pound of aluminum by at least one-third, with a target of reducing products of combustion by one-half. A scope of work detailing the project and milestones for completion of the project is included in exhibit A of this CAF[®].

18. For the Stack-Testing SEP, Trialco, Inc. must spend at least \$26,000 to complete and document the stack tests. For the Emissions-Reduction SEP, Trialco, Inc. must spend at least \$400,000 to engineer, purchase, and install the selected equipment.

19. Trialco, Inc. must continuously use or operate the equipment installed under the Emissions Reduction SEP for three years following its installation.

20. Trialco, Inc. certifies that it is not required to perform or develop either SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Trialco, Inc. further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

21. U.S. EPA may inspect the facility at any time to monitor Trialco, Inc.'s compliance with this CAFO's SEP requirements.

22. Trialco, Inc. must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Trialco, Inc. must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

23. Trialco, Inc. must submit SEP completion reports to U.S. EPA by May 31, 2007 for the Stack-Testing SEP, and by March 31, 2007 for the Emissions Reduction SEP. Each report must contain the following information:

- a. detailed description of the SEP as completed;
- b. description of any operating problems and the actions taken to correct the problems;
- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. certification that Trialco, Inc. has completed the SEP in compliance with this CAFO; and
- e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

24. Trialco, Inc. must submit all notices and reports required by this CAFO by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

25. In each report that Trialco, Inc. submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

26. Following receipt of each SEP completion report described in paragraph 23 above, U.S. EPA must notify Trialco, Inc. in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Trialco, Inc. 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 28.

27. If U.S. EPA exercises option b. above, Trialco, Inc. may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Trialco, Inc.'s objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Trialco, Inc. a written decision on its objection. Trialco, Inc. will

comply with any requirements that U.S. EPA imposes in its decision. If Trialco, Inc. does not complete the SEP as required by U.S. EPA's decision, Trialco, Inc. will pay stipulated penalties to the United States under paragraph 28 below.

28. If Trialco, Inc. violates any requirement of this CAFO relating to the SEP, Trialco, Inc. must pay stipulated penalties to the United States as follows:

- a. For each SEP, if Respondent spent less than the amount set forth in paragraph 18, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on that SEP and the amount set forth in paragraph 18.
- b. For each SEP, if Respondent has completed the SEP but the SEP is not satisfactory, Respondent must pay \$5,000 in addition to any penalty required under subparagraph 28.a, above.
- c. If Respondent halts or abandons work on the SEP, Respondent must pay a stipulated penalty of \$50,000 in addition to any penalty required under subparagraph 28.a, above. The penalty will accrue as of the date for completing the SEP or the date performance ceases, whichever is earlier.
- d. If Respondent fails to comply with the schedule in exhibit A to this CAFO for implementing each SEP, or fails to submit timely any SEP completion report required by paragraph 23, above, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$50	1 st through 14 th day
\$100	15 th through 30 th day
\$250	31 st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone until it achieves compliance with the milestone.

29. U.S. EPA's determinations of whether Trialco, Inc. satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Trialco, Inc..

30. Trialco, Inc. must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Trialco, Inc. will use the method of payment specified in paragraphs 10 - 12 , above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

31. Any public statement that Trialco, Inc. makes referring to the SEP must include the following language, "Trialco, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Trialco, Inc. for violations of Section 112 of the Clean Air Act."

32. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- a. Trialco, Inc. must notify U.S. EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Trialco, Inc.'s past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Trialco, Inc. must take all reasonable actions to avoid or minimize any delay. If Trialco, Inc. fails to notify U.S. EPA according to this paragraph, Trialco, Inc. will not receive an extension of time to complete the SEP.
- b. If the parties agree that circumstances beyond the control of Trialco, Inc. caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If U.S. EPA does not agree that circumstances beyond the control of Trialco, Inc. caused or may cause a delay in completing the SEP, U.S. EPA will notify Trialco, Inc. in writing of its decision and any delays in completing the SEP will not be excused.
- d. Trialco, Inc. has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

General Provisions

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the complaint.

34. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

35. This CAFO does not affect Trialco, Inc.'s responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 33 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

36. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Trialco, Inc.'s "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

37. The terms of this CAFO bind Trialco, Inc., and its successors, and assigns.

38. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

39. Each party agrees to bear its own costs and attorneys' fees in this action.

40. This CAFO constitutes the entire agreement between the parties.

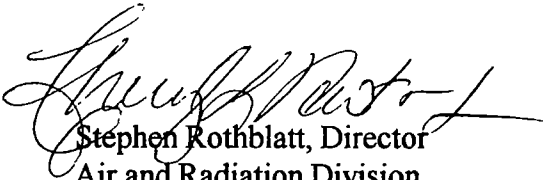
CONSENT AGREEMENT AND FINAL ORDER

Trialco, Inc.

Docket No. CAA-05-2005-0049

U.S. Environmental Protection Agency, Complainant

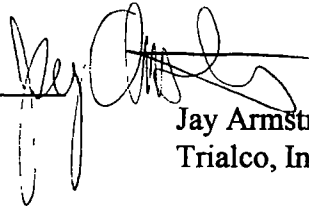
Date

2/9/06 

Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Trialco, Inc., Respondent

Date



Jay Armstrong, President
Trialco, Inc.

Jan 30, 2006

CONSENT AGREEMENT AND FINAL ORDER

Trialco, Inc.

Docket No. CAA-05-2005-0049

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

2/10/06
Date

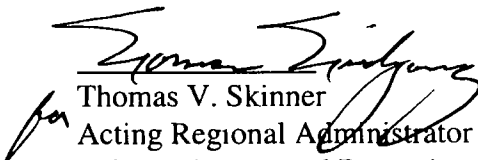

Thomas V. Skinner
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

EXHIBIT A: Scopes of Work for SEPs

Stack-Testing SEP Scope of Work

1. Trialco will first do a document search to ensure that the amount of ammonia used and released into the environment does not violate any existing laws. This will be completed no later than March 31, 2006. Trialco will report in writing the completion of this step, and the findings of its document search.

2. Trialco will then conduct four six-hour tests. These tests will consist of four hours of charging materials in two furnaces, and two hours of pouring on each test. The charge rates will be measured, along with flux usage, furnace temperature, bag house inlet temperature and as many other variables as can be tracked. This will be completed no later than January 31, 2007.

A. On the first two tests, the ammonia system will be seeping ammonia into the bag house inlet. Dioxin will be measured by EPA Testing Method #23, and hydrogen chloride will also be measured using the EPA Test Method. The readings will be recorded and calculated.

B. On the next two tests, the ammonia seep system will be turned off. The scrap input and as many other variables as can be controlled will be maintained as in the first two tests. Dioxin will be measured by EPA Testing Method #23, and hydrogen chloride will also be measured using the EPA Test Method. The readings will be recorded and calculated.

3. The test results will be summarized and presented to U.S. EPA no later than May 31, 2007, as part of the completion report required in Paragraph 23 of the CAFO. Upon U.S. EPA's request, Trialco, Inc. will present these test results to other secondary aluminum companies.

Emissions Reduction SEP Scope of Work

1. First, Trialco, Inc. will investigate emissions reduction options on the following timetable:

a. Using a gas meter and production records, Trialco will establish baseline BTU's per pound on the ES furnace. Using U.S. EPA's AP42 Emission Factors from Chapter 1.4 – Natural Gas Combustion (based on gas/air combustion), Trialco will determine the amount of CO₂, lead, NO_x, PM, SO₂, TOC, Methane, VOC, and CO generated per pound of aluminum produced. Trialco will provide a written report to U.S. EPA summarizing findings.

Completion Date: by Feb. 15, 2006.

b. Trialco will determine the best technology to reduce the emissions identified in step a, by at least one third per pound of aluminum produced. The following alternatives will be considered: new furnace design; molten metal pump installation; oxygen burner; recuperative burner system; regenerative burner system; submerged arches.

2. Upon selecting a technology, Trialco will commit to lowering its products of combustion per pound by at least one third. The target will be to lower by half, but a reduction by one third per pound produced on the ES furnace will be considered successful. This will be measured as follows: gas consumption multiplied by the AP42 emissions factor identified above, and then divided by pounds of aluminum product produced in a year. Trialco will provide a written report to U.S. EPA identifying and briefly describing the selected technology; stating the emissions reduction target; and providing the calculations supporting that reduction target.

Completion Date: by March 31, 2006.

3. Trialco will obtain necessary permits from Illinois EPA and local authorities. Provide a written report to U.S. EPA stating that this item has been completed.

Completion Date: by June 30, 2006.

4. Trialco will obtain financing and order equipment to implement the selected technology.

Completion Date: by July 31, 2006.

5. Trialco will receive and install equipment. Trialco will provide a written report to U.S. EPA stating that this item has been completed.

Completion Date: by December 31, 2006.

6. Trialco will begin operation of equipment.

Completion Date: by February 28, 2007.

7. Trialco will determine gas usage by meter, and amount of metal produced by production records. Trialco will provide a completion report as set out in Paragraph 23 of the CAFO.

In the Matter of Trialco, Inc.
Docket No. CAA-05-2005-0049

CERTIFICATE OF FILING AND MAILING

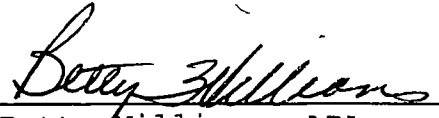
I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2005-0049 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed a correct copy by first-class, postage prepaid, certified mail, return receipt requested, to Trialco, Inc. by placing it in the custody of the United States Postal Service addressed as follows:

Jay Armstrong, President
Trialco, Inc.
900 East 14th Street
Chicago Heights, Illinois 60411

I also certify that a copy of the CAFO was sent by first class mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 13th Day of February, 2006


Betty Williams, APA
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000614551157